

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The mission of the Equal Employment Opportunity Commission (EEOC, Commission, or Agency) is to ensure equality of opportunity in employment by vigorously enforcing and educating the public about the following Federal statutes: title VII of the Civil Rights Act of 1964, as amended (prohibits employment discrimination on the basis of race, color, sex (including pregnancy), religion, or national origin); the Equal Pay Act of 1963, as amended (makes it illegal to pay unequal wages to men and women performing substantially equal work under similar working conditions at the same establishment); the Age Discrimination in Employment Act of 1967, as amended (prohibits employment discrimination based on age of 40 or older); titles I and V of the Americans with Disabilities Act, as amended, and sections 501 and 505 of the Rehabilitation Act, as amended (prohibits employment discrimination based on disability); Title II of the Genetic Information Nondiscrimination Act (prohibits employment discrimination based on genetic information and limits acquisition and disclosure of genetic information); and section 304 of the Government Employee Rights Act of 1991 (protects certain previously exempt state and local government employees from employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability).

The EEOC has authority to issue legislative regulations under the Age Discrimination in Employment Act, title I of the Americans with Disabilities Act (ADA), and title II of the Genetic Information Nondiscrimination Act (GINA). Under title VII of the Civil Rights Act, the EEOC's authority to issue legislative regulations is limited to procedural, record keeping, and reporting matters.

Four items are identified in this Regulatory Plan. Two of these items are agency regulations related to employer-sponsored wellness programs. On August 22, 2017, the U.S. District Court for the District of Columbia ordered the EEOC to reconsider its regulations under the ADA and GINA related to incentives and employer-sponsored wellness plans. See *AARP v. EEOC*, Civ. Action No. 16-2113 (D.D.C. Aug. 22, 2017). In accordance with the Court's ruling, the EEOC, on December 20, 2018, issued final rules to rescind the incentive section of the ADA and GINA rules. Now it will consider and take actions to address wellness programs in response to the court's ruling. The EEOC's Fall 2019 Regulatory Agenda states that NPRMs are expected to be issued by January 2020.

A third item from the Regulatory Agenda concerns joint employer status under federal EEO laws. This regulation would provide more clarity to stakeholders regarding when an entity may be considered a joint employer subject to the jurisdiction of federal EEO laws. It would, among other things, update and consolidate the EEOC's position on the topic to regulatory locations that are easier for stakeholders to find, as opposed to having the Commission's position represented in a smattering of different subregulatory guidance documents. The Commission proposes to issue an NPRM on joint employer status by December 2019.

Finally, the Regulatory Plan includes revisions to the Federal Sector Equal Employment Opportunity Process. The federal sector EEO process governs the handling of administrative complaints alleging employment discrimination by federal Executive Branch agencies. The Commission published an Advanced Notice of Proposed Rulemaking on February 6, 2015, seeking public input on issues associated with making the federal sector EEO process fairer and more efficient. The Commission expects to issue an NPRM in December 2019.

Executive Order 13771 Statement

EEOC does not anticipate finalizing any regulatory or deregulatory actions subject to Executive Order 13771 in the next 12 months. All of the rules designated in this plan are significant under EO 12866, but they are not expected to be finalized in the next 12 months.

Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chair of the Agency. The statement has not been reviewed or approved by the other members of the Commission.